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Supreme Court of the United States

OCTOBER TERM, 1965

No. 770

DR. WILLIAM R. BECK, APPELLANT,

versus

DANIEL R. McLEOD, ATTORNEY GENERAL OF SOUTH CAROLINA, APPELLEE

ON APPEAL FROM U. S. DISTRICT COURT—EASTERN DISTRICT OF SOUTH CAROLINA, CHARLESTON DIVISION

MOTION TO DISMISS

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Appellee moves to dismiss on the ground that the question presented is so unsubstantial as not to need further argument.

Appellant seeks review by appeal of a question which is foreclosed by the dismissal by this court, on the ground that there was no substantial question, of *Dantzler v. Callison,* 372 U. S. 939, 77 S. Ct. 263, 1 L. Ed. (2d) 235. The opinion below was by the Supreme Court of South

Carolina and is reported at 230 S. C. 75, 94 S. E. (2d) 177. In that case every question sought to be raised by the appellant here was raised and decided adversely to his contentions. The three-judge court below very properly held the dismissal of *Dantzler v. Callison* to be tantamount to an adjudication upon the merits, and therefore binding upon it, citing *Barton v. Sentner*, 353 U. S. 963, 1 L. Ed. (2d) 901. *Barton* is manifest authority that a dismissal for want of a substantial question is a decision on the merits. In addition the court below cited a number of cases indicating to it that appellant has no case. (Jurisdictional Statement, Appendix A, p. 3a, footnote 5.)

For the foregoing reasons, Appellee's Motion to Dismiss should be granted.

Respectfully submitted,

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